

**REMARKS**

Reconsideration of the application as amended is respectfully requested. Claims 1-14 are in this amendment. Claims 1 and 5 have been amended as suggested by the Examiner so to overcome the 112 rejection. Applicant believes claims 3 and 4 contain allowable subject matter since these claims have not been rejected on the merits.

Claims 1-2, 5-7 and 11 stand rejected under 35 U.S.C. § 102(b) based upon Hoyt or Curro. It is apparently the examiner's position that each of the elements set forth in the claims is disclosed by each reference. It is respectfully pointed out, however, that in order for a Section 102 rejection to stand, the prior art reference must contain all of the elements of the claimed invention. See *Lewmar Marine Inc. v. Barient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987). Applying the law to the instant facts, neither of the references relied upon by the Office Action provide for an insulation material as claimed. Each of Curro and Hoyt instead has to do merely with a laminated web or wipe.

More specifically, the present invention is directed towards an insulation material, such as thermally insulating material in sleeping bags and other similar items, as specified throughout the present application in the background and detail description (see paragraphs 1-9, 17 and 19 on pages 1-2 of Publication US 2003/0129356A1). On the other hand, Curro's laminate web is not such an insulation material but instead is said to be merely a clean room wipe, tack cloth, decorative covering, or a food pad (see Abstract). In addition, Curro's laminate web is said to be conductive (paragraph 151, page 15 of Curro) and thus teaches away from a material that insulates as claimed. As for the other reference, Hoyt's chamois is also not an insulation material but rather said to be merely a drying rag for windows and glass, automobile and marine bodies, and household surfaces (see background of Hoyt).

In addition, while the limitation "an insulation material" is recited in the preamble, is it important in understanding just what the invention is directed to. Consequently, where the preamble gives life and meaning to the claim, as it does here, it is a positive limitation and the Examiner is asked to treat it as such. See Corning Glass Works v. Sumitomo Electric USA, Inc., 9 USPQ2d 1962 (CAFC 1989).

Finally, note that rejected claims 8-10 and 12-14 depend from one of independent claims 1 and 5 and are therefore also allowable for the above reasons.

Accordingly, it is respectfully submitted that the claims as presented are in condition for allowance a notice of which is earnestly solicited.

The Commissioner is authorized to charge any additional fee that may be required to Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP

By:



Ronald R. Santucci  
Reg. No. 28,988  
(212) 588-0800